

One Judge–One Family

Butte County's Unified Family Court

In January 1998 the judges of the Superior Court of Butte County began work to create a unified family court. At formal and informal meetings we had noted the incredible crossover among the cases involving the same persons or the same family in the various divisions of our court. The Supervising Family Division Judge, Ann H. Rutherford, took an active role in “bundling” files that involved the same individual or family. Judge Rutherford, for several years prior to our formally creating our unified family court, required, on an ad hoc basis, the attendance in court of probation officers, prosecutors, defense lawyers, and all parties and counsel who were involved in the various cases. Whether they were criminal, probate, traffic, or some other type of case, all cases for this family or individual were rubber-banded together and heard by Judge Rutherford, an extremely experienced judicial officer.

To avoid treating these cases on an ad hoc basis, the court began holding planning meetings. All members of the Butte County Board of Supervisors were invited, as were the heads of county departments that were likely to have substantial involvement in the unified court. These included the Butte County Probation Department, the Department of Behavioral Health (formerly Mental Health), the Children's Services Division of the Welfare Department (CSD, formerly Child Protective Services, or CPS), and the Butte County Office of Education (BCOE).

Meetings were well attended, and no one could argue with the concept that one judge, thoroughly familiar with a family, should hear all the cases involving that particular family. This approach, known as a “unified” court, has also been termed a “one judge–one family” structure. Because all participants agreed in principle with the unified court concept, the agencies could not refuse to provide assistance in organizing the calendars.

We noted some of the problems identified with not having a unified court at the planning meetings. They included:

- A lack of coordination and communication in the delivery of social services intended to assist the families in resolving their legal issues and the underlying interpersonal and personal issues that contributed to their involvement in



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The Superior Court of California, County of Butte instituted a unified family court in June 1998. In a unified family court such as Butte's, one judge handles all cases involving a family, regardless of case type. Butte's unified calendar, named H.O.P.E. (Helping Organize Parents Effectively), is outcome-based and relies on multidisciplinary team members as service providers. The court attempts to fashion orders that are consistent and provide for coordination in the delivery of services to assist the family in resolving their legal and personal issues. Another outcome is the reduction of currently pending cases involving the family.

The author would like to express his thanks to Ms. Jane Pfeifer, a former H.O.P.E. court coordinator, for her assistance in preparation of this article. ■

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the legal system in the first place. Services were often fragmented. Different case-workers from different agencies were frequently unaware that they were assigned to the same family.

- Different judges in different divisions made inconsistent orders. For example, the family law court may have made orders encouraging the father to visit his children. If he was prosecuted for domestic violence against the mother in criminal court, there may also have been orders requiring him to stay away from the mother and children. Obviously, with one judge hearing all cases, the orders were much more likely to be consistent and appropriate.
- Some families have an incredibly large number of individual cases before the court. One man and woman, who were parents of a child under the jurisdiction of the juvenile dependency court, had over 30 separate cases involving minor drug offenses in the preceding five years. An obvious goal of the unified family court is to reduce the family's contacts with the court system in terms of future court filings.

Because of the success of our therapeutic drug court, we decided that this integrated family court should emphasize a therapeutic approach as opposed to a punitive one. The judicial officer should emphasize persuasion rather than punishment and use the parent's desire to be with his or her children (a positive outcome of the visitation, custody, or other issue in dispute) as the primary motivation for compliance. We also agreed that the judicial officer would focus on short-term goals rather than long-term challenges for the families. The primary approach of the court would be outcome-based, and the judicial officer could impose appropriate sanctions, including jail time, if he or she felt them to be necessary.

After months of planning, our first calendar for the unified family court was called in June 1998. We named the calendar H.O.P.E., for "Helping Organize Parents Effectively."

To not overload the agencies that agreed to participate in this experiment, the court decided to limit the size of the calendar to 15 families at any one time. The families are selected through a nomination process that involves a review of their situation and cases by the court and a designee from each of the four agencies that provide social services believed to be critical to the success of almost every family involved in the H.O.P.E. Court (Behavioral Health, Probation, BCOE, and CSD).

The general procedure and criteria for accepting a nomination include the following:

- The family must be involved in multiple Butte County court filings. We are not looking at the "difficult" divorce case; rather, we are searching for families who are causing an impact on the court system through multiple court filings. Any case type involving the family may be placed on the H.O.P.E. calendar. These could include traffic cases, family support reimbursement cases filed by the district attorney, and even criminal cases. However, all criminal matters must have been adjudicated because there will be no criminal trials in the H.O.P.E. Court. Violation of probation hearings, sentencings, and dispositions may be adjudicated in H.O.P.E. Court.

- H.O.P.E. Court does not displace any existing therapeutic courts—for example, our drug court. Although this may seem inconsistent with the “one judge–one family” premise, these specialized courts offer expertise and realize therapeutic gains that outweigh the general goal of one judge–one family. The H.O.P.E. Court judge monitors the family members’ progress in the other therapeutic courts.
- An attorney with the county counsel’s office prepared a broad release-of-information form. The release form addresses the confidentiality issues that often bar the exchange of information between and among the various providers of services. All adult members of the family seeking acceptance into H.O.P.E. Court must sign the release. The execution of the release indicates the family’s willingness to participate in H.O.P.E. Court.
- Upon receipt of the nomination, the H.O.P.E. Court coordinator, a court employee dedicated only part-time to the H.O.P.E. project, conducts a search for any active cases involving any members of the family, gathering all pertinent case files and preparing a list of cases and their current status, including active warrants. The coordinator then distributes the case summary to our case management team, which consists of designated lead workers from Probation, CSD, Behavioral Health, and BCOE.
- The case management team, together with the judge, reviews and evaluates cases and families to decide which families will be accepted for H.O.P.E. Court. The case management team evaluates the families based upon appropriateness or suitability for the family to be placed on the H.O.P.E. calendar and the availability of space and resources.
- Attorneys who are representing members of the families in any of the open cases that are being discussed in the evaluation process are invited to attend the nomination meetings and participate in the discussion.
- As the person with the authority to make final decisions regarding the family, the H.O.P.E. Court judge makes the ultimate decision about acceptance into the unified calendar, but only after a full and frank discussion with the other team members. In the end, a nominated family may be denied access to H.O.P.E. Court, the decision may be postponed, or the nomination accepted.

When a family is accepted into the H.O.P.E. Court, one of the four team members is appointed to act as the lead worker for that family. The lead worker is responsible for contacting all agencies involved with the family’s cases and for preparing a court service plan. This service plan is comprehensive and specific regarding the services being offered the family and the responsibilities the parents and children are expected to fulfill in order to comply with the plan. The service plan sets specific goals that the family must meet, normally within an eight-week period. The plan calls for a structured system of supervision and accountability; it outlines the participants’ and service agencies’ obligations and clearly states the method of monitoring (such as drug testing and producing proof of attendance at Alcoholics Anonymous meetings). Prior to the initial court hearing, all attorneys, all parties, and all members of the case

management team should receive a copy of the proposed service plan. In addition, the lead worker prepares reports before each review, outlining the family's progress and making appropriate recommendations.

Before all court appearances, be it the initial hearing or any subsequent reviews, a precalendar case management meeting takes place with the four team members, a public defender, all attorneys involved in the cases, any service providers who wish to attend, and the court. The family members do not attend these meetings. At the case management meeting members of the management team, the judicial officer, and others who have an interest in the case review and discuss the service plan. The team is made aware of the specifics of the family's current situation and any proposed action. The case management team discusses the family's progress in meeting the service plan's goals and makes recommendations for changes or modifications to the service plan.

After the precalendar case management meeting, the cases are called in open court with a court reporter present. The judicial officer engages in conversation with the lead workers and the parents (sometimes the children as well), and discusses the goals to be achieved prior to a review. The parties are encouraged to ask questions and to fully participate in the process so they understand what is required of them. Borrowing a suggestion from Judge Carl F. Bryan (Nevada County Superior Court), the family is placed in the jury box so that all participants in the process can hear and see each other.

In most cases, the judicial officer orders an eight-week review hearing. However, reviews may be set more or less frequently as is deemed necessary. During the reviews, the judicial officer normally inquires about challenges the family members are meeting on a daily basis and ways the court and members of the case management team might help them meet those challenges more effectively. The judicial officer also asks each member of the case management team to make comments to, or ask questions of, the parents. This not only involves the team members in the hearing process, but the dialogue also begins to build alliances between the parents and team members, and gives the parents the sense that there is a community of caring service providers who are there to help them in the reorganization and recovery of their family.

A family remains under the supervision of the H.O.P.E. Court until one of two situations arises. The first is if, after one or more review hearings, the case management team and the judicial officer determine that one or both parents have not participated in good faith in achieving the goals stated in their service plan. This generally occurs after the parents have been given sufficient opportunities and warnings to improve their participation and compliance but have failed to do so, have continued not to meet the goals and objectives of the H.O.P.E. Court service plan, and/or have continued to violate conditions of probation or other judicial orders. In this situation, the judicial officer will order the family's multiple cases returned to their respective courts—criminal court, juvenile court, family court, and so forth. Conversely, the family may leave H.O.P.E. Court because they

have achieved their individual and collective goals and regularly reporting to the court serves no further purpose.

Much has been written about the obstacles that are faced in establishing a unified family court. Butte County certainly has encountered many of them, ranging from confidentiality to simply being able to identify the files that belong to a particular family throughout the court system. Some practical problems, and possible solutions, follow.

Given the existing court organization, how do we identify all files belonging to a particular family?

One problem is the way in which cases are indexed: a juvenile case is indexed by the name of the child, a dissolution of marriage or paternity suit is indexed by the names of the parents; and, often, the parents—and the child—may have different last names as well.

The Butte County court system does have a computerized case management system that indexes names regardless of case type. This means that if John Doe has a criminal case and a traffic case and is the defendant in a civil case, our case management system will list all cases involving John Doe. Therefore, it simply requires routine and not overly difficult detective work. Our coordinator performs a record search on each name in the family tree that has been provided to her by the family or participating agencies.

How do we coordinate between the court's separate units?

The Civil Division processes family law, paternity, and the usual civil cases. We also have a Probate Division that processes conservatorships and guardianships. A Criminal Division processes domestic violence, drug court, and other misdemeanor and felony cases. Traffic cases are processed separately, as are juvenile cases.

When a family's cases are scheduled to be called on a H.O.P.E. calendar day, the coordinator must go to four or five separate locations to retrieve the files. This obviously requires coordination among the divisions and that the coordinator pull the cases well in advance of the calendar day.

During the planning process we developed a minute order sheet that addresses most of the issues the different case types present on the H.O.P.E. calendar. For example, for the criminal cases, the form provides checkboxes to indicate that the hearing is for a probation review or a violation of probation, that the defendant was advised of and knowingly and voluntarily waived his or her rights, and so on.

How does one define a "family"?

This is both a practical and philosophical question. All of us have encountered cases where a stepparent or even a nonrelative can have a more nurturing rela-

tionship with a child than the biological parents. Additionally, we encounter situations where one woman has several children, each fathered by a different man, some of whom may be involved with the children and others not. From our experience, it is usually clear who forms the core of the family unit. These are the persons whose consent and authorization we seek and the persons to whom services are provided.

How does one bridge the confidentiality gap among the various service providers?

It became apparent to us that nearly every H.O.P.E. Court family was involved in a confidential proceeding, usually a juvenile matter. Our county counsel drafted a very broad confidentiality waiver, and we require all adults who wish to participate in the H.O.P.E. calendar to execute it. To date, counsel for the children have never objected to proceeding in the unified family court.

Our experience has been that family members want to participate in the H.O.P.E. Court. Many of the court's characteristics explain their willingness to participate. For example, a convicted felon facing a violation of probation might (wishfully) view the H.O.P.E. Court as an alternative to state prison. A parent subject to Welfare and Institutions Code section 300 dependency jurisdiction might look to the H.O.P.E. Court as a means to demonstrate a willingness to reunify with the children, thereby avoiding termination of reunification services and, ultimately, a termination of parental rights. We have not encountered a single person who refused to waive confidentiality or a person who has withdrawn consent.

What happens when the judicial officer must conduct a contested hearing?

Many times the families wishing to participate in the H.O.P.E. Court are involved in proceedings under the jurisdiction of the dependency court. The timelines for reunification are very strict. If a parent shows commitment to the process toward the end of the reunification period and is then accepted into the H.O.P.E. Court, that parent must accomplish much in a short period of time. For some parents, the reunification period ends without their having substantially addressed the problems causing the court to assume jurisdiction in the first place. The recommendation is to terminate reunification efforts and set the matter for a permanency planning hearing. If the parent objects, should the H.O.P.E. Court judge hear the contested proceeding?

The answer appears to be no, based on discussions among colleagues in unified family courts. In monitoring the families and reviewing their cases in the H.O.P.E. Court, one learns a great deal about each family's strengths and weaknesses that might not otherwise be revealed in a proceeding governed by the rules of evidence. Accordingly, contested matters, where findings must be made based on conflicting evidence, are probably best heard by another judicial officer.

During the first year of H.O.P.E. Court operation,

- Seventeen families entered the H.O.P.E. Court;
- Seven families exited: I would characterize four of the exits as favorable and three as unfavorable;
- Seven families were denied entry to H.O.P.E. Court;
- Four nominations were postponed, and all were either later accepted or denied;
- The average number of open cases for each family in H.O.P.E. Court was 7; the lowest number was 3, and the highest was 11.
- The 17 families that entered the program had 117 total cases. As the families progressed (or regressed) in H.O.P.E. Court, individual cases would be resolved or disposed of (for example, a traffic case might be adjudicated), or, as in the case of one family, a new case might be added as a result of a family member's arrest on a drug charge.

Parenthetically, we have not “cherry-picked” families for the purpose of trumpeting our successes. Against my better judgment, two families were admitted in which the parents were involved in the criminal justice system and drug culture for many years. I rated their chances for improvement as hopeless (sorry). As it turned out, these were two of our most stunning successes.

One last point. I have characterized exits from H.O.P.E. Court as “favorable” or “unfavorable.” Making these determinations has presented us with our most difficult challenge: How do we judge or assess the outcomes in these cases? Clearly, if the program does not succeed in meeting clearly defined program goals, then the program should be discontinued. How do you develop the “objective” criteria by which to judge the outcomes of the cases?

In a therapeutic or outcome-based court such as drug court, the defendant is the only person appearing before the court. The goal is clear: to assist a drug abuser in abstaining from continued use of drugs. This is accomplished in a number of ways—building self-esteem, obtaining employment, attending counseling, and so forth.

In our unified family court there are usually a number of individuals who are parties to the proceedings. Each has different needs and limitations. For example, one of our cases involved a husband and wife who did not live together. Each was homeless. They had three children between them, none of whom were attending school. This case was identified as one of the worst in our county in terms of truancy. As is often the case, these homeless parents were not employed and had few job skills. The mother was a drug abuser as well. The eldest child was developmentally disabled, but no effort had been made to process an application for services through the Regional Center organized to assist such children. The children had not received needed medical attention.

The case came to H.O.P.E. Court when the parents were convicted (by plea) of contributing to the delinquency of a minor in criminal court (Cal. Penal Code § 272). They were placed on formal probation.

The initial goal identified for this family was to require the children to attend school. Compliance was minimal. The parents were exhorted to comply with the case plan, and incidentally, their probation conditions, at the first review.

Soon the mother was arrested for possession of drugs. I sentenced her to six months in the county jail and decided that if she would agree to participate in an in-patient drug rehabilitation program, I would release her to that program. She chose to sit out the time in jail.

For some reason, the absence of the mother from the family dynamics energized and empowered the father. Attendance at school became perfect. He arranged for necessary medical treatment for the children. He participated with the children in after-school homework clubs and other programs. The children were fed and appropriately clothed. They thrived in the school environment.

The eldest daughter was processed through the Regional Center and started receiving additional services. The father obtained a job, and after bartering with a landlord, obtained the first permanent dwelling the family had ever been in. He painted it, obtained secondhand furniture, and moved his children in on Christmas Eve. The children were dumbstruck.

The mother appeared at one of the reviews while still in custody. One of the "pending" files involving this family was a dissolution of marriage proceeding that had been initiated by the mother, in propria persona, years earlier. With the consent of the parties I avoided several procedural requirements of our court to obtain a trial date and proceeded to enter a dissolution of their marriage. Additionally, with the consent of the parties, custody orders were made.

Upon the mother's release from jail she was promptly arrested for another drug violation. She will probably serve time in our state prison. The father, on the other hand, recently received an award for "Father of the Year" from a local service club.

How do you assess the outcome reached for this "family" in our H.O.P.E. Court? Was it favorable or unfavorable? When you look at the individuals involved, the three children and the father ended up better off for participating in the H.O.P.E. Court program; no change was accomplished in the mother's situation. Each case is unique. If we help a majority of the family members, is that a success?

Our H.O.P.E. Court team presently leans toward evaluating the relative success of our efforts based on a format used by counselors when they bill insurance companies for their work. An assessment of the person obtaining counseling is made at the beginning of the relationship and after each session. The counselor's intervention hopefully produces a positive change in the individual that the insurance company can understand and support.

The before-and-after assessments for H.O.P.E. Court will be done on each individual in the family. Alcohol use, drug use, parenting skills, employment, school attendance, legal entanglements, mental health/well-being, and behavioral and medical issues are the general items that will be assessed for each individual in the H.O.P.E. Court. We are hoping that this instrument will enable us to somewhat objectively determine whether our efforts are successful or not.

As the judge hearing the Butte County H.O.P.E. Court calendar, I can truthfully say that it has been one of the most challenging assignments of my nearly 12-year career. One must be “ambidextrous”—able to call out a variety of cases, each with different procedures and burdens of proof. One must try to make sense of the priorities of each family—for instance, deferring sentencing on an admitted violation of probation in a criminal case until the parent is able to demonstrate progress in learning parenting skills or taking advantage of counseling for domestic violence. While this assignment is challenging, it has also been very rewarding. One comes to learn much about the dynamics of a particular family and witness real growth and progress.

